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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,244

01/03/2006

Saburo Yamada

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EXAMINER

OLSON, LARS A

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

03/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,244	<b>Applicant(s)</b> YAMADA, SABURO	
	<b>Examiner</b> Lars A. Olson	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01032006, 02162006, 08202007</u> .                            | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boland (US 4,274,335).

Boland discloses a monorail vehicle, as shown in Figures 1-7, that is comprised of a chassis base, defined as Part #3, a pair of first and second wheels, defined as Parts #6 and 7, that are held by said base for rotation on an upper surface of a rail, defined as Part #1, a third wheel, defined as Part #9, that is held by said base for rotation on a lower surface of said rail, and a motor, defined as Part #10, for driving one of said first and second wheels, as shown in Figure 4, where said wheels are held by said base through a cushioning member, defined as Part #15. Said third wheel is further comprised of two wheels, defined as Parts #8 and 9, which are spaced from each other in the extending direction of said rail, as shown in Figure 2.

Boland, as set forth above, discloses all of the features as claimed except for said first, second and third wheels having a specific positioning and distance between them.

The use of a vehicle with wheels having a specific spacing, distance or positioning between them would be considered by one of ordinary skill in the art to be a design choice based upon the desired loading of said wheels by the weight of said vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vehicle with wheels having a specific spacing in combination with the monorail vehicle as disclosed by Boland for the purpose of providing a vehicle with improved support and wheel loading for operation on a rail.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boland in view of Lich (US 3,092,039).

Boland, as set forth above, discloses all of the features as claimed except for the use of wheels comprised of tires made from an elastic material, and an auxiliary wheel that is rotatable on a side surface of a rail.

Lich discloses a suspended railway system, as shown in Figures 1-20, that includes a vehicle comprised of a base, defined as Part #7, first and second wheels, defined as Part #2, having pneumatic tires that are rotatable on an upper surface of a rail, defined as Part R, and an auxiliary wheel, defined as Part #12, that is rotatable on a side surface of said rail under one of said first and second wheels.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vehicle with elastic tires and an auxiliary wheel, as taught by Lich, in combination with the monorail vehicle as disclosed by Boland for the

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purpose of providing a vehicle with additional support and cushioning for operation on a rail.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horn (US 3,987,734), Shortridge et al. (US 3,902,432) and Becker (US 3,760,737) disclose vehicles for traveling on a rail.

5. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

February 7, 2008

/Lars A Olson/

Primary Examiner, Art Unit 3617